

**P-5686U1-C1-1 PATENT**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**RECEIVED**  
**CENTRAL FAX CENTER**

**OCT 27 2004**

In re patent application of R. Dennis Nesbitt

Serial No.: 09/877,835

Examiner: A. Hunter

Filing Date: June 8, 2001

Group Art Unit: 3711

For: MULTI-CORE, MULTI-LAYER COVER GOLF BALL

Mail Stop AF  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

This Appeal Brief is in furtherance of the Notice of Appeal that was filed for the above-referenced application on September 10, 2004.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying Fee Transmittal.

Appellant files herewith an Appeal Brief in connection with the above-identified application, wherein claims 1 to 9, 11 to 17, 19 and 20 were finally rejected in the Office Action of March 10, 2004. What follows is Appellant's Appeal Brief in accordance with 37 C.F.R. § 41.37.

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**CERTIFICATION UNDER 37 C.F.R. 1.8**

I hereby certify that this Appeal Brief and the documents referred to as attached therein are being transmitted by facsimile on this date October 27, 2004, to TC3700 at 703-872-9306 addressed to: Mail Stop AF, Attention: Board of Patent Appeals and Interferences, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

  
Michelle Bugbee

09/877,835

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**I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))**

The real parties in interest in this appeal are the inventor named in the caption of this brief (R. Dennis Nesbitt) and the assignee, Callaway Golf Company.

**II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))**

Currently, it is believed that there are no other appeals or interferences in process or pending before the U.S. Patent and Trademark Office from which the present application bases its priority, or any case which bases its priority upon the present application, that will directly affect or be affected by or have a bearing on the Board's decision in this Appeal.

**III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(viii))**

The status of claims set forth after the Final Office Action mailed March 10, 2004 and the Advisory Actions mailed May 21 and June 29, 2004 was, and is, as follows:

Allowed claims: none

Rejected claims: 1 to 9, 11 to 17, 19 and 20

Canceled claims: 10 and 18

The present appeal is directed to claims 1 to 9, 11 to 17, 19 and 20.

**IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))**

In the Final Office Action of March 10, 2004, claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 were rejected under 35 U.S.C. § 103(a) as obvious over Melvin et al. (US 5,779,562) in view of Yamagishi et al. (US 5,688,595), and 4 and 17 were rejected under 35 U.S.C. § 103(a) as obvious over Melvin et al. (US 5,779,562) in view of Yamagishi et al. (US 5,688,595) and further in view of Farrally et al. (Science and Golf III). Claims 11 and 19 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter because claim 11 was dependent upon a canceled claim.

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An Amendment was filed May 7, 2004 amending claim 11 to overcome the rejection under 35 U.S.C. § 112, second paragraph, as well as with arguments directed to the rejections under 35 U.S.C. § 103(a). The Advisory Action of May 21, 2004 stated that the Amendment would be entered for purposes of an Appeal. A second Amendment was filed on May 28, 2004, with the same amendment to claim 11 and arguments directed to the rejections under 35 U.S.C. § 103(a). The Advisory Action of June 29, 2004 again stated that the Amendment would be entered for purposes of an Appeal. A third Amendment was filed on July 13, 2004, with the same amendment to claim 11 and arguments directed to the rejections under 35 U.S.C. § 103(a). No Advisory Action was received. A Notice of Appeal was then filed on September 10, 2004, the six-month deadline.

**V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))**

The present invention is directed to a golf ball comprising a multi-layer core comprising a center component and a core layer disposed about said center component, wherein said center component of said multi-layer core is softer relative to said core layer; wherein said center component comprises a thermoset material and said core layer comprises a thermoset material; and, a cover layer disposed about said multi-layer core; wherein said cover layer includes one of (i) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or greater and an outer cover layer having a Shore D hardness of 65 or less, said inner cover layer being harder than said outer cover layer, (ii) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or less and an outer cover layer of 65 or greater, wherein said inner cover layer is softer than said outer cover layer, (iii) a single non-ionic outer cover layer having a Shore D hardness of from about 40 to 80, and (iv) a single ionic outer cover layer having a Shore D hardness of at least 56 (claim 1).

The present invention is also directed to a golf ball comprising a multi-layer core comprising a center component and a core layer disposed about said

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center component; wherein said center component comprises a polybutadiene thermoset material and said core layer comprises a polybutadiene thermoset material, wherein said center component of said multi-layer core is softer relative to said core layer; and, a cover layer disposed about said multi-layer core; wherein said cover layer includes one of (i) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or greater and an outer cover layer having a Shore D hardness of 65 or less, said inner cover layer being harder than said outer cover layer, (ii) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or less and an outer cover layer of 65 or greater, wherein said inner cover layer is softer than said outer cover layer, and (iii) a single non-ionomeric outer cover layer having a Shore D hardness of from about 40 to 80, and (iv) a single ionomeric outer cover layer having a Shore D hardness of at least 56 (claim 14).

The present invention is also directed to a golf ball comprising a multi-layer core comprising a center component and a core layer disposed about said center component, wherein said core layer has a Shore D hardness of at least 60; wherein said center component comprises a polybutadiene/ZDA thermoset material and said core layer comprises a polybutadiene/ZDA thermoset material; and, a multi-layer, ionomeric cover layer disposed about said dual core; wherein said cover layer includes one of (i) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or greater and an outer cover layer having a Shore D hardness of 65 or less, said inner cover layer being harder than said outer cover layer, and (ii) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or less and an outer cover layer of 65 or greater, wherein said inner cover layer is softer than said outer cover layer (claim 20).

**VI. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))**

Whether claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 are obvious under 35 U.S.C. § 103(a) over Melvin et al. (US 5,779,562) in view of Yamagishi et al.

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(US 5,688,595); and whether claims 4 and 17 are obvious under 35 U.S.C. § 103(a) over Melvin et al. (US 5,779,562) in view of Yamagishi et al. (US 5,688,595) and further in view of Farrally et al. (Science and Golf III).

The rejection of claims 11 and 19 under 35 U.S.C. § 112, second paragraph will not be addressed because the Amendment to claim 11 would overcome this rejection.

**VII. ARGUMENTS (37 C.F.R. § 41.37(c)(1)(vii))**

1. The Examiner's rejection of claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 as obvious under 35 U.S.C. § 103(a) over Melvin et al. (5,779,562) in view of Yamagishi et al. (5,688,595) is erroneous and must be reversed.

The Examiner has rejected claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 as being unpatentable under 35 U.S.C. § 103(a) over Melvin et al. (5,779,562). Appellant respectfully submits that the rejection is over Melvin et al. in view of Yamagishi et al. (5,688,595), although the Final rejection omits Yamagishi et al. The basis for the Examiner's rejection is as follows:

Claims 1-3, 5-9, 11-16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin et al. (USPN 5779562).

Melvin et al. discloses a multi-core, multi-cover golf ball having a core comprised of a center core layer and an outer core layer and a cover comprised of an inner and outer cover layer (See Abstract). The center core layer and the outer core layer is made of polybutadiene any may also contain other types of materials such as a thermoset rubber or a thermoset elastomer material (See Column 5, lines 11 through 51). The polybutadiene comprises zinc diacrylate as the crosslinking agent (See Column 6, lines 1 through 11). The center core layer has a diameter of about 10 to 35 mm, or 0.394 to 1.378 inches, and the outer core layer has a diameter of 30 to 40 mm, 1.181 to 1.575 inches (See Column 9, lines 20 through 28). The disclosure implicitly shows the outer core layer has a thickness of 2.5 to 10 mm, or 0.098 to 0.394 inches. The outer core also has a Shore C hardness of less than 80, or less than about 53 Shore D. The inner and outer cover layers both comprise ionomer resin (Column 12, lines 41 through 47; and paragraph bridging Column 14 and 15). The inner cover layer is harder than the outer cover layer wherein the inner cover layer has a Shore D hardness of 60 or more and the

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outer cover layer has a Shore D of 55 or less (See Column 12, lines 30 through 40; and paragraph bridging Column 14 and 15). Melvin et al. does not disclose having a center component softer than the core layer. Yamagishi et al. discloses a four piece golf ball having a dual core wherein the inner sphere is softer than the surrounding layer, wherein the surrounding layer has a Shore D hardness of 45 to 80 (See paragraph bridging Column 2 and 3 and Column 4, lines 21 through 32). The core construction allows for improved restitution and soft hitting feel. One of ordinary skill in the art would have found it obvious to have the inner sphere softer than the surrounding layer, as taught by Yamagishi et al., in order to improved restitution and hitting feel.

(See Office Action of March 10, 2004 pp. 2-3.)

**A. The Examiner's Cited References**

U.S. Patent No. 5,779,562 to Melvin et al. discloses a multi-core, multi-layer cover golf ball wherein the specific gravity of the inner core and the core layer are different by at least 0.1. Melvin et al. discloses that the moment of inertia of the ball can be controlled by changing the specific gravities of the inner core and core layer, depending on the desired moment of inertia. Melvin et al. does not disclose the hardness of the inner core, but Melvin et al. discloses that the outer cover layer is less than 55 Shore D and is also less than the inner core, and that the outer core has a Shore C of less than 80.

U.S. Patent No. 5,688,595 to Yamagishi et al. discloses a golf ball having a soft inner core, a hard core layer, and a soft cover wherein the inner cover layer is softer than the outer cover layer. The layers of Yamagishi's ball have specific properties to provide a specific feel and result.

**B. The Subject Matter of Claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 is Patentably Distinguishable Over the Cited Art**

Claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 are not obvious over Melvin et al. in view of Yamagishi et al.

Appellant respectfully disagrees with the Examiner and submits

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that the Examiner has not made out a *prima facie* case of obviousness. Melvin et al. discloses a multi-core, multi-layer cover golf ball wherein the specific gravity of the inner core and the core layer are different by at least 0.1. Melvin et al. discloses that the moment of inertia of the ball can be controlled by changing the specific gravities of the inner core and core layer, depending on the desired moment of inertia. Melvin et al. does not disclose the hardness of the inner core, but Melvin et al. discloses that the outer cover layer is less than 55 Shore D and is also less than the inner core, and that the outer core has a Shore C of less than 80. Therefore, the inner core can be either softer or harder than the core layer, as long as the specific requirements are met.

The Examiner stated that Yamagishi et al. "was not used to teach cover hardness, only the core relationship." Yamagishi discloses a golf ball having a soft inner core, a hard core layer, and a soft cover wherein the inner cover layer is softer than the outer cover layer. The layers of Yamagishi's ball have specific properties to provide a specific feel and result. The cover layers of Yamagishi et al. are different from that of Melvin et al. because Melvin et al. has a hard inner cover layer and a soft outer cover layer, while Yamagishi et al. has a soft inner cover layer and a harder outer cover layer that is still fairly soft. Appellant respectfully submits that even if Yamagishi et al. is combined with Melvin et al. in the rejection, there is no motivation, suggestion or teaching to substitute the core of Yamagishi et al. for the core of Melvin et al. because Melvin et al. discloses that the core has specific properties designed to control the moment of inertia, and Yamagishi et al. has a harder outer core layer because of the softer cover. At most, there might be a motivation to try the core of Yamagishi et al. in the golf ball of Melvin et al., but motivation to try is clearly not the standard. Appellant respectfully submits that the Examiner is picking and choosing elements to reconstruct Appellant's invention, and this is not allowed.

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The Examiner cannot choose a core from a ball having completely different properties and substitute it into another ball solely for the purpose of reconstructing Appellant's invention.

In the Response to Arguments, the Examiner states that 35 U.S.C. § 103 only requires motivation, not anticipation. Appellant agrees, but as previously stated, the Examiner has failed to provide even the motivation.

Additionally, as stated by the Examiner, Melvin discloses a cover layer where the inner cover is harder than the outer cover layer. Applicant respectfully submits that Melvin does not disclose the ranges as claimed by applicants in part (i) of claims 1, 14 and 20, nor does Melvin disclose the cover combinations disclosed in parts (ii), (iii) or (iv) of claims 1 and 14, or part (ii) of claim 20.

Claims 2, 3, 5 to 9, 11 to 13, 15, 16 and 19 depend, or ultimately depend, from claims 1 and 14, which Appellant submits are not obvious over Melvin et al. in view of Yamagishi et al. for the reasons just discussed, therefore, claims 2, 3, 5 to 9, 11 to 13, 15, 16 and 19 are also not obvious over Melvin et al. in view of Yamagishi et al.

The Examiner's cited references neither teach nor suggest the golf ball of claims 1 to 3, 5 to 9, 11 to 16, 19 and 20.

2. **The Examiner's rejection of claims 4 and 17 as obvious under 35 U.S.C. § 103(a) over Melvin et al. (5,779,562) in view of Yamagishi et al. (5,688,595) and further in view of Farrally et al. (Science and Golf III) is erroneous and must be reversed.**

The Examiner has rejected claims 4 and 17 as being unpatentable under 35 U.S.C. § 103(a) over Melvin et al. (5,779,562) in view of Yamagishi et al. (5,688,595) and further in view of Farrally et al. (Science and Golf III). The basis for the Examiner's rejection is as follows:

Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melvin et al. (USPN 5779562) in view of Yamagishi et al. (USPN 5688595) further in view of Farrally et al. (Science and



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**Golf III).**

Melvin et al. does not disclose the outer core layer having two or more layers. Farrally et al. discloses that having a core more than two layers is advantageous for controlling the weight distribution of the golf ball (See Page 411). One having ordinary skill in the art at the time the invention was made would have found it obvious to incorporate a core layer with two or more layers in order to optimize the weight distribution and specific gravity of the golf ball. Farrally et al. has been substituted in place of the OFFICIAL NOTICE made in the previous office action and, therefore, does not constitute new art.

(See Office Action of March 10, 2004 p. 4.)

**A. The Examiner's Cited References**

U.S. Patent No. 5,779,562 to Melvin et al. discloses a multi-core, multi-layer cover golf ball wherein the specific gravity of the inner core and the core layer are different by at least 0.1. Melvin et al. discloses that the moment of inertia of the ball can be controlled by changing the specific gravities of the inner core and core layer, depending on the desired moment of inertia. Melvin et al. does not disclose the hardness of the inner core, but Melvin et al. discloses that the outer cover layer is less than 55 Shore D and is also less than the inner core, and that the outer core has a Shore C of less than 80.

U.S. Patent No. 5,688,595 to Yamagishi et al. discloses a golf ball having a soft inner core, a hard core layer, and a soft cover wherein the inner cover layer is softer than the outer cover layer. The layers of Yamagishi's ball have specific properties to provide a specific feel and result.

Farrally et al. discusses golf balls that have double cores.

**B. The Subject Matter of Claims 4 and 17 is Patentably Distinguishable Over the Cited Art**

Claims 4 and 17 are not obvious over Melvin et al. in view of Yamagishi et al. and further in view of Farrally et al.

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Appellant respectfully disagrees with the Examiner and submits that the Examiner has not made out a *prima facie* case of obviousness. As discussed above, Appellant respectfully submits that Melvin et al., either alone or in combination with Yamagishi et al. does not disclose Appellant's invention. The addition of Farrally et al. also does not disclose Appellant's invention. Additionally, Appellant respectfully submits that Farrally et al. (on page 411) discloses that double cores, not a core with two or more layers, are advantageous. Contrary to the assertions of the Examiner, the reference does not comment on the advantage or disadvantage of having a core with two or more layers. The reference merely states that 'Kasco now has a triple core named "Rockets"', but it makes no comment on the advantage or disadvantage of such a core. Farrally et al. provides no motivation, suggestion or teaching for a core with a center and two or more layers.

Claims 4 and 17 depend, or ultimately depend, from claims 1 and 14, which Appellant submits are not obvious over Melvin et al. in view of Yamagishi et al. and further in view of Farrally et al. for the reasons discussed above, therefore, claims 4 and 17 are also not obvious over Melvin et al. in view of Yamagishi et al. and further in view of Farrally et al. .

The Examiner's cited references neither teach nor suggest the golf ball of claims 4 and 17.

In view of the above, Appellant respectfully submits that claims 1 to 9, 11 to 17, 19 and 20 are not obvious over the cited references. Accordingly, it is respectfully requested that the Examiner's rejection of claims 1 to 9, 11 to 17, 19 and 20 be reversed.

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Respectfully submitted,

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**VIII. CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))**

The claims standing on appeal are:

1. A golf ball comprising:

a multi-layer core comprising a center component and a core layer disposed about said center component, wherein said center component of said multi-layer core is softer relative to said core layer;

wherein said center component comprises a thermoset material and said core layer comprises a thermoset material; and,

a cover layer disposed about said multi-layer core;

wherein said cover layer includes one of (i) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or greater and an outer cover layer having a Shore D hardness of 65 or less, said inner cover layer being harder than said outer cover layer, (ii) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or less and an outer cover layer of 65 or greater, wherein said inner cover layer is softer than said outer cover layer, (iii) a single non-ionomeric outer cover layer having a Shore D hardness of from about 40 to 80, and (iv) a single ionomeric outer cover layer having a Shore D hardness of at least 56.

2. The golf ball of claim 1 wherein the outer cover layer is selected from multi-layer cover (i) or multi-layer cover (ii).

3. The golf ball of claim 1 wherein said thermoset material comprises a material selected from the group consisting of (i) a diene-containing polymer, (ii) a metallocene catalyzed polyolefin that is cross-linked, (iii) a polyurethane, (iv) a silicone, (v) a polyamide, (vi) a polyurea, and (vii) combinations thereof.

4. The golf ball of claim 1 wherein said core layer comprises more than one layer.

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5. The golf ball of claim 1 wherein said center component thermoset material comprises a polybutadiene rubber.

6. The golf ball of claim 5 wherein said thermoset polybutadiene rubber further comprises zinc diacrylate (ZDA).

7. The golf ball of claim 1 wherein said core layer thermoset material comprises polybutadiene rubber.

8. The golf ball of claim 7 wherein said polybutadiene rubber further comprises zinc diacrylate (ZDA).

9. The golf ball of claim 1 wherein said center component of said multi-layer core has an outer diameter of from about 1.340 inches to about 1.400 inches, and said core layer of said multi-layer core has an thickness of from about 0.020 to about 0.100 inches.

11. The golf ball of claim 1 wherein said core layer has a Shore D hardness of at least 60.

12. The golf ball according to claim 1 wherein each layer in the multi-layer cover (i) and multi-layer cover (ii) is independently formed from a thermoplastic resin, a thermoset resin, or a blend thereof.

13. The golf ball according to claim 2 wherein the multi-layer cover (i) or multi-layer cover (ii) comprises at least one ionomeric material.

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14. A golf ball comprising:

a multi-layer core comprising a center component and a core layer disposed about said center component;

wherein said center component comprises a polybutadiene thermoset material and said core layer comprises a polybutadiene thermoset material, wherein said center component of said multi-layer core is softer relative to said core layer; and,

a cover layer disposed about said multi-layer core;

wherein said cover layer includes one of (i) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or greater and an outer cover layer having a Shore D hardness of 65 or less, said inner cover layer being harder than said outer cover layer, (ii) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or less and an outer cover layer of 65 or greater, wherein said inner cover layer is softer than said outer cover layer, and (iii) a single non-ionomeric outer cover layer having a Shore D hardness of from about 40 to 80, and (iv) a single ionomeric outer cover layer having a Shore D hardness of at least 56.

15. The golf ball according to claim 14 wherein the cover layer is selected from multi-layer cover (i) or multi-layer cover (ii).

16. The golf ball of claim 14 wherein said thermoset material further comprises zinc diacrylate (ZDA).

17. The golf ball of claim 14 wherein said core layer comprises more than one layer.

19. The golf ball of claim 11 wherein said core layer has a Shore D hardness of at least 60.

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20. A golf ball comprising:

a multi-layer core comprising a center component and a core layer disposed about said center component, wherein said core layer has a Shore D hardness of at least 60;

wherein said center component comprises a polybutadiene/ZDA thermoset material and said core layer comprises a polybutadiene/ZDA thermoset material; and,

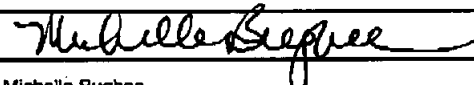
a multi-layer, ionomeric cover layer disposed about said dual core; wherein said cover layer includes one of (i) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or greater and an outer cover layer having a Shore D hardness of 65 or less, said inner cover layer being harder than said outer cover layer, and (ii) a multi-layer cover comprising an inner cover layer having a Shore D hardness of 65 or less and an outer cover layer of 65 or greater, wherein said inner cover layer is softer than said outer cover layer.

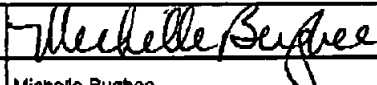
PTO/SB/21 (09-04)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/677,635	<b>RECEIVED CENTRAL FAX CENTER OCT 27 2004</b>
	Filing Date	June 8, 2001	
	First Named Inventor	R. Dennis Nesbitt	
	Art Unit	3711	
	Examiner Name	A. Hunter	
Total Number of Pages in This Submission	17	Attorney Docket Number	P-5668U1-C1-1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	The Top-File Golf Company	
Signature		
Printed name	Michelle Bugbee	
Date	October 27, 2004	Reg. No. 42,370

CERTIFICATE OF TRANSMISSION/MAILING	
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Date	October 27, 2004

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**FEE TRANSMITTAL**  
**for FY 2005**

Effective 10/01/2004, Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 340.00**Complete if Known**

Application Number	09/877,835
Filing Date	June 8, 2001
First Named Inventor	R. Dennis Nesbitt
Examiner Name	A. Hunter
Art Unit	3711
Attorney Docket No.	P-5686U1-C1-1

**METHOD OF PAYMENT** (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit AccountDeposit Account Number  
Deposit Account Name

17-0160

Top-Flite Golf Company

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
<b>SUBTOTAL (1)</b>					<b>(\$) 0</b>

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Extra Claims Fee from below Fee Paid

Total Claims  -20\*\* =  X  =

Independent Claims  -3\*\* =  X  =

Multiple Dependent  =

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	88	2201	44	Independent claims in excess of 3	
1203	300	2203	150	Multiple dependent claim, if not paid	
1204	88	2204	44	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
<b>SUBTOTAL (2)</b>					<b>(\$) 0</b>

\*\*or number previously paid, if greater. For Reissues, see above

**FEE CALCULATION** (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1612	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	340.00
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$) 340.00**SUBMITTED BY**

Name (Print/Type)	Michelle Bugbee	Registration No. (Attorney/Agent)	42,370	Telephone	413-322-2837
Signature	<i>Michelle Bugbee</i>	Date	October 27, 2004		

(Complete if applicable)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.